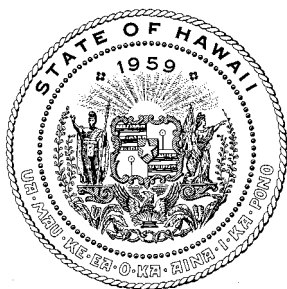


AN INTRODUCTION TO THE GENERAL EXCISE TAX



STATE OF HAWAII
DEPARTMENT OF TAXATION

Benjamin J. Cayetano
Governor

Ray K. Kamikawa
Director of Taxation

A MESSAGE FROM THE DIRECTOR

Congratulations on starting a business in the State of Hawaii!

This brochure is intended to provide you and other taxpayers who have started or are interested in starting a business in Hawaii with basic information regarding the general excise tax in an easy to follow question and answer format. Should you have any further questions, please telephone or write to one of our district tax offices. The telephone numbers and mailing addresses are provided to you at the end of this brochure.

Good luck in your new venture!

1. What is the general excise tax?

The general excise tax is a tax imposed on business activity in the State of Hawaii. This tax is often called a “gross income tax” because the tax is computed based on the business’ total gross income derived from doing business in Hawaii and not on the business’ net profit. It includes any cost passed on to the customer and represented to be the general excise tax.

2. Is the general excise tax the same thing as a sales tax?

No. The general excise tax is often referred to as a sales tax, but it is not a sales tax. The general excise tax is a business privilege tax which applies at different rates to gross receipts from most business activities conducted in Hawaii, from manufacturing, to wholesaling, and finally to the retail sale (sales of goods and services). The sales tax, on the other hand, applies only to the final business transaction, the retail sale, and is generally limited to the sale of goods.

3. If the general excise tax is levied on gross income, does that mean that nothing is deductible?

Very few expenses may be deducted. Most business expenses allowed as deductions on your income tax return (e.g. cost of supplies, utility bills, etc.) are NOT deductible on your general excise tax return. A few general excise tax exemptions and deductions are specifically provided for in the law.

A list of what is exempt or deductible is provided in your general excise tax forms booklet.

4. Is the general excise tax imposed only on retail sales or on income from other business activities as well?

The general excise tax is imposed on income from most types of business activities. Examples include wholesaling, farming, manufacturing, interest on an agreement of sale of business real property, commissions, retailing, services, royalties, contracting, and rental activities.

5. Is the general excise tax the same thing as the hotel room tax?

No. Although often mistakenly called a hotel room tax, the correct name of the tax that you have in mind is the transient accommodations tax. This tax is another tax which may need to be paid in addition to the general excise tax.

If you own any type of rental accommodation (e.g. hotel room, apartment, beach house, condominium, etc.) which is rented out for periods of less than 180 consecutive days to anyone, you also

may be subject to the 7.25% transient accommodations tax (6% prior to January 1, 1999). For further information, you may request a copy of the Department of Taxation's publications entitled, "An Introduction to the Transient Accommodations Tax," and "Information on the Rental of Residential Real Property," from any district tax office.

6. What percent of my gross income will I have to pay in general excise tax?

You will have to pay either 0.15%, 1/2 of 1% (0.5%) or 4% depending on the kind of business activity that generated the income.

The 0.15% tax rate is imposed on commissions from insurance sales. Generally, the tax rate is 0.5% if the income is from a business activity such as wholesaling, producing, manufacturing, or certain services rendered to or for an intermediary. Most other income is taxed at the 4% rate.

Individuals who are certified blind, deaf, or totally disabled, or their corporations if they own 100% of the shares, will be taxed at the rate of 0.5% on income normally taxed at the 4% rate.

For more information on benefits available to persons with impaired sight, impaired hearing, or who are totally disabled, you may obtain Tax Information Releases 89-3 and 94-2 from any district tax office.

7. Can I charge my customers for the general excise tax I have to pay?

There is no law that prohibits the passing on of the general excise tax to your customers. As such, you may include it in the price you charge your customers.

Although you are not required to tell your customers the amount of the sales price which will be used to pay your general excise tax, you may choose to separately itemize this amount as is commonly done. The amount itemized is usually represented as a percentage of a basic price and is included in the total gross income subject to the general excise tax. If a separate amount will be added, be sure your customer knows that the additional amount will be charged ahead of time and agrees to pay it. Under consumer protection laws, you cannot pass on an amount which exceed the actual general excise tax due on the gross income from the transaction.

8. What do I need to do in order to register for this tax?

Start with filling out the State of Hawaii Basic Business Application (Form BB-1). If submitting the application and license fee through the mail, submit the original copy and make a copy for your records. Applications may be obtained from any district tax

office. On Oahu, you also may obtain an application from the Business Action Center on Nimitz Highway or at the Business Action Service Center at the Department of Commerce and Consumer Affairs.

9. Is there a fee for registering for the general excise tax?

Yes. There is a one-time \$20 fee that must be paid at the time application is made.

10. If I have more than 1 business activity, must I register for and obtain a separate identification number for each one?

No. Only 1 identification number is needed for all of your business activities. If you have more than one business activity, be sure to list all of them on your application. If your application already has been filed, you may change your application to add or delete other activities. (See question 30 for information on making changes to your application.)

11. After sending in my application form and fee, what will I receive from the Department of Taxation?

Approximately 3 to 4 weeks after sending in your application, you will receive your general excise license certificate which shows that you have properly registered to pay the general excise tax. This certificate must be displayed at each place of business. If you have more than one business location, a branch license must be obtained for each additional location. (See question 34 for information on applying for a branch license.)

You will receive your general excise tax forms booklet after you receive your general excise tax license certificate.

12. Is there a way I can get my license sooner?

Yes. If 2 copies of the application and your fee are brought in person to the Department of Taxation, an identification number will be assigned, and blank general excise tax forms and a temporary license (a copy of the application validated by the cashier) will be issued to you immediately. Your license certificate will be mailed to you in approximately 3 to 4 weeks. You will receive your booklet of forms after you receive your license.

IMPORTANT: Applications which are merely dropped off will be treated as if they had been mailed.

13. I bought an existing business. Do I have to apply for a new general excise license number, or can the existing license be transferred to me?

You must apply for your own license. General excise tax licenses are not transferable. Whenever there is a change of

ownership or a change in the type of ownership, a new license number is required even if the business itself remains intact.

For example, if a self-employed individual incorporates a business, the individual may not change the license to reflect the new corporate ownership even if the individual owns 100% of the stock. In this case, the new corporation must apply for its own general excise tax license. If the individual does not have any other business activity, the individual also should cancel or inactivate the existing license.

14. I noticed that there are references to the “use tax” on the general excise tax forms. What is the use tax?

The use tax is a tax imposed on the landed value of tangible personal property imported from somewhere outside Hawaii to a location within Hawaii. The “landed value” is the value an item has at the time it arrives in Hawaii. It generally includes the sales price, shipping, insurance, handling, and other related costs, but does not include any state or local sales tax paid in another state.

The use tax is imposed at different rates. For example, the use tax is imposed at the rate of 0.5% if the imported item will be sold at retail or if it is to be leased or rented. The use tax rate is 4% if the item will be used instead of being sold or rented to another. No use tax is imposed if the item will be sold at wholesale.

For example, if a self-employed individual purchases a piece of equipment from a seller in another state and then has it shipped to Hawaii for use in the individual’s business (not for sale or for leasing purposes), then the individual, as the importer, must pay the use tax at the rate of 4% on the landed value of that equipment.

For further information, you may request a copy of the Department of Taxation’s publication entitled, “An introduction to the Use Tax,” from any district tax office.

15. My company is not located in Hawaii, but we may have isolated sales to customers in Hawaii. Are we subject to the use tax on the goods imported to Hawaii for sale to our Hawaii customers, and are we also subject to the general excise tax on the gross income we derive from the sales to our Hawaii customers?

Your company may or may not be subject to the use and general excise taxes depending on your situation.

Your company is not subject to the taxing jurisdiction of Hawaii, including the use and general excise taxes, if it does not have sufficient presence in Hawaii. If your company sends the goods to your customers via the mail or common carrier, does not have an office, employees, representation, or inventory or other property in Hawaii, and does not provide supplementary services in

Hawaii such as installation, training, or maintenance and repair of equipment, then your company is not subject to either the use tax or the general excise tax.

If, however, your company has property in Hawaii, provides services, or acquires a presence in Hawaii for any period of time, then your company will likely be subject to the taxing jurisdiction of Hawaii for both the use and general excise taxes. If so, your company should apply for a general excise tax license. For additional information, you may obtain Tax Information Release 95-5 from any district tax office.

Contact any district tax office should you have any questions regarding what constitutes doing business in Hawaii. (See also question 16 below.)

16. We have a contract with the State of Hawaii to “furnish and deliver” some equipment. No installation, training, or any services will be provided, and delivery will be by common carrier. Once the goods are delivered and deemed acceptable, payment to us will be made. Our company does not have any offices, employees, property, inventory, or any other contact with Hawaii. Do we have to pay the use or general excise taxes on this sale?

Under the described conditions, it appears your company does not have sufficient contact with Hawaii to be subject to our taxing jurisdiction as a result of this contract.

17. How do I determine how often I need to file general excise tax returns?

General excise/use tax returns must be filed throughout the year either monthly, quarterly, or semiannually. How often you file depends on the amount of general excise tax your business has to pay during the year.

You may file semiannually (every 6 months) if you will pay \$1,000 or less in general excise tax per year. For example, if you are taxed at the rate of 4%, and if you have \$25,000 or less in total gross income for the year, you may file semiannually.

You may file quarterly (every 3 months) if you will pay \$2,000 or less in general excise tax per year. For example, if you are taxed at the rate of 4%, and if you have \$50,000 or less in total gross income for the year, you may file quarterly.

You must file monthly if you will pay more than \$2,000 in general excise tax per year.

Taxpayers whose total annual general excise and use tax liability exceeds \$100,000 are required to make their payments by electronic funds transfer (EFT). For additional information,

you may obtain Tax Information Release 95-6 from any district tax office.

18. What form do I use to report my gross income and my general excise tax?

Form G-45, the periodic tax return, is used to report your gross income and to pay your general excise tax. The general excise tax forms booklet contains 2 Forms G-45 for each filing period of your taxable year. One copy is filed with the Department of Taxation, and the other is kept for your records.

As a cost savings measure, the Department is now issuing general excise tax forms booklets according to your filing status. Thus if you are a quarterly filer, the booklet will contain only quarterly tax returns. If you are a semiannual filer, only semiannual tax forms will be enclosed in your booklet. Also, calendar year taxpayers now receive their booklets on a staggered schedule rather than all at once. Monthly filers should receive their booklets by the end of January, quarterly filers should receive their booklets by the end of March, and semiannual filers should receive their booklets by the end of June.

19. Must I file a periodic tax return if I did not have any business income during the filing period?

A periodic tax return must be filed even if you do not have any gross income to report for the filing period. If there is no gross income to report, just write a zero (0) in each column of the line for your main business activity.

20. Must I enter a number in each of the columns for all the business activities listed on the return?

No. However, you must enter a number in every column (a-d), for each business activity you engaged in during the filing period. If you have nothing to report in a particular column, you must enter a zero (0) in that column; you may not leave it blank. For example, if you registered for both wholesaling and retailing but only had retail sales during the filing period, you must only complete columns a, b, c, and d of line 8, retailing.

21. Are there any other lines or columns which must be completed?

Yes. The appropriate amount or a zero (0) must be entered on the line for "Total Taxes Due," and "Grand Total Exemptions/Deductions From Back of Form."

22. What will happen if the form is not correctly completed?

If the return is improperly completed, you may receive a letter from the Department requesting an explanation.

23. When are the periodic tax returns due?

Periodic tax returns are due one month following the close of the filing period; that is, you have one month to file them. For example, the tax return for the semiannual period January through June must be filed on or before the last day of July.

A return is filed on time if it is dropped off at the Department of Taxation or postmarked on or before the due date of the return. If the due date falls on a weekend or State holiday, the tax return is considered timely filed if filed on the first work day immediately following that weekend or holiday.

24. What should I do if I have income from more than one kind of business activity?

If you have more than one activity, the gross income must be separated by type of activity on your general excise tax returns.

For example, if you engage in both wholesaling and retailing, gross income derived from wholesaling must be entered on line 1, and gross income derived from retailing must be separately entered on line 8.

25. What is the annual tax return?

The annual general excise tax return (Form G-49) is a summary of your activity for the entire year. There will be no additional tax due if there are no changes to the gross income, exemptions and deductions, taxable income, and taxes due reported on and paid with the periodic tax returns.

The annual tax return also may be used to make corrections to the amounts previously reported. For example, if you forgot to claim an allowable deduction such as a refund on returned goods or a bad debt write-off, you may include the deduction on the annual return. Doing so will lower your tax due for the year and may result in a refund.

26. Can I skip the periodic tax returns and just file the annual return?

No. You must file both the periodic tax returns and the annual tax return.

27. When is the annual tax return due?

The annual tax return is due on the twentieth day of the fourth month following the close of your taxable year. For example, the annual return for a calendar year taxpayer must be filed on or before April 20. (If you are not sure what your taxable year is, check your copy of the application, Form BB-1).

A return is filed on time if it is dropped off at the Department of Taxation or postmarked on or before the due date of the return.

If the due date falls on a weekend or State holiday, the tax return will be considered timely filed if filed on the first workday immediately following that weekend or holiday.

Extensions of time to file your general excise annual tax return may be requested by filing Form G-39. Extensions may be granted for periods of no more than 3 months at a time and no more than 6 months in total. This is not an automatic extension and may only be granted for a good reason. An extension of time to file is NOT an extension of time to pay the tax, and a check for any additional tax due must be attached to the Form G-39.

REMINDER: Do not attach your annual general excise tax return to your income tax forms.

28. What should I check before I file my tax returns?

Make sure all required entries are made and check your math calculations. Be sure to sign and date the tax return. Your check, made payable to the "HAWAII STATE TAX COLLECTOR" in U.S. dollars, should be attached to the tax return. Write the filing period, the form number, and your license number on the check so that your payment will be properly credited if it is accidentally separated from the tax return.

29. Where do I file my tax returns?

Your completed periodic and annual tax returns must be signed, dated, and submitted with any payments to the Department of Taxation. Mailing addresses are printed on the cover of your general excise tax forms booklet.

30. What are the other forms in my general excise tax forms booklet used for?

In addition to the periodic and annual tax returns, there are three other forms at the beginning of your booklet.

Notification of Cancellation (Form GEW-TA-RV-1) This form must be filed if you terminate your business and no longer need a general excise license. Without notification, the Department of Taxation will NOT cancel your license at the end of the year. If you stop filing your tax returns, you will be subject to a compliance inquiry. Your license certificate(s) must be returned with the cancellation form.

Change of Address Form (Form GEW-TA-RV-2) This form is only used to change your mailing address and/or business address. It may not be used for any other changes.

General Excise/Use, Employer's Withholding, Transient Accommodations and Rental Motor Vehicle & Tour Vehicle Surcharge Application Changes Form (Form GEW-TA-RV-5) This form is used to make other changes to the information on your

general excise license. Examples of common changes include: changing your filing period (e.g. from semiannual to quarterly); adding or deleting various business activities; adding or deleting the partners or corporate officers of your business; and changing your last name upon marriage.

Be sure that the form includes your name as it appears on your license, your license number, and all of the information the Department will need to make the change. In addition, the Department may ask you to provide copies of supporting documents.

31. Must I cancel my license if I terminate my current business but plan to start another business in the future?

No, there are 2 other options.

First, you may continue to file your periodic and annual general excise tax returns on which you report zero (0) income and tax due. (See question 19 above.)

Second, you may file a written request with the Department asking that your license be temporarily placed on an inactive status for a period of 2 years. If you have not yet started a new business at the end of the 2-year period, you may file a written request with the Department asking to extend the inactive period for an additional 2 years. You may have an inactive license reactivated at any time by notifying the Department in writing, otherwise, at the end of the 2 year inactive period your license will automatically become active again.

32. What happens if I don't pay my general excise tax on time?

Penalties and interest are assessed on late filed returns or taxes not paid by the due date of the tax return.

If the tax return is filed after the due date, a penalty is assessed on the taxes due at the rate of 5% per month, or part of a month, up to a maximum rate of 25%. If the tax return is filed on time but no payment or insufficient payment is received, a penalty of 20% of the unpaid balance will be assessed if the tax is not paid within 60 days of the due date of the tax return.

Interest is assessed at the rate of $\frac{2}{3}$ of 1% per month on the entire unpaid tax and penalty.

Any payment you make first will offset the interest owed, then the penalty, and finally the tax itself.

For EFT filers, a penalty of 2% of the amount of the tax due will be assessed if a taxpayer who is required to make payments by EFT or who has voluntarily registered to make payment by EFT, fails to do so without reasonable cause.

33. Will the Department revoke my license if I don't file any general excise tax returns?

Yes. In general, the Department may revoke your license if no returns are filed for 5 years, and if attempts to contact you are unsuccessful. This 5-year period does not include periods during which your license is on inactive status. (See question 31 above.)

34. How do I get a branch license?

In general, only one license certificate with your name and one business name is issued per account. If, however, you require additional certificates because you have more than one business location at which the license must be displayed, or if you have more than one business name, a branch license application (Form G-50) may be filed. Form G-50 may be obtained from any district tax office.

35. What should I do if I find I have made a mistake on my tax return?

If you discover that an error has been made on a periodic tax return already filed with the Department of Taxation, an amended periodic tax return (Form G-54) must be filed. The amended periodic tax return may be used only if the annual tax return for that tax year has not yet been filed.

If correcting the error results in a tax credit, the credit will be refunded to you. Any additional tax due should be paid with a check attached to your amended periodic tax return.

If you discover that an error has been made on an annual tax return already filed with the Department of Taxation, an amended annual tax return (Form G-55) must be filed. Any tax credit claimed will be refunded to you; you may not carry the credit forward to a subsequent tax year. Any additional tax due should be paid with a check attached to your amended annual tax return.

Amended periodic and annual tax returns may be requested from any district tax office.

36. How does paying my general excise tax affect my state income tax?

Any general excise tax you pay may NOT be taken as a credit against your income tax liability. However, the general excise tax may be taken as a business expense deduction.

NOTE: You may be required to pay estimated income tax using Form N-1 if you are an individual taxpayer, Form N-3 if a corporation, or Form N-5 if an estate or trust. For additional information, refer to the instructions on these forms. Forms N-1, N-3, and N-5 may be obtained at any district tax office.

37. How long should I keep the records I used to prepare my general excise tax returns?

Every taxpayer shall keep in the English language within the State, and preserve for a period of 3 years, suitable records of gross proceeds of sales and gross income, and such other books, records of account, and invoices as may be required by the Department.

38. After I have filed my annual return, how long does the Department have to assess or levy additional taxes?

General excise taxes shall be assessed or levied within 3 years after the annual return was filed, or within 3 years of the due date prescribed for the filing of said return, whichever is later, and no proceeding in court without assessment for the collection of any such taxes shall be begun after the expiration of the period.

39. How much time do I have to claim a refund if I determine that I have overpaid my general excise taxes?

If an annual return is timely filed, or filed within 3 years after the date prescribed for filing the annual return, then the refund shall be claimed within 3 years after the date the annual return was filed or the date prescribed for filing the annual return, whichever is later.

If an annual return is not filed, or is filed more than 3 years after the date prescribed for filing the annual return, a claim for refund shall be filed within 3 years after the payment of the tax or 3 years after the date prescribed for the filing of the annual return, whichever is later.

40. How can I get help if I have any additional questions about the general excise tax?

Instructions for completing general excise tax returns may be found in your general excise tax forms booklet.

You also may contact any district tax office for additional information and forms. The mailing addresses and telephone numbers for all the district tax offices are listed at the end of this brochure.

NEED TO CONTACT A DISTRICT TAX OFFICE?

The mailing addresses, locations, and telephone numbers are listed below:

OAHU DISTRICT OFFICE

First Taxation District
P. O. Box 259
Honolulu, HI 96809-0259

Princess Ruth Keelikolani Bldg.
830 Punchbowl St.
Honolulu, HI 96813-5094

Telephone Numbers

TAXPAYER SERVICES

Information: (808) 587-4242
1-800-222-3229

Fax No.: (808) 587-1488

TDD/TTY: (808) 587-1418
1-800-887-8974

COMPLIANCE DIVISION

TDD/TTY: (808) 587-1419
1-800-961-5369

Office Audit Branch

(808) 587-1660

Fax No.: (808) 587-1633

Collection Branch

(808) 587-1600

Fax No.: (808) 587-1720

FORMS BY FAX

On Oahu: (808) 587-7572
Outside Oahu: (808) 678-0522
from your fax machine

CD-ROM (nominal fee) and

FORMS BY MAIL

(808) 587-7572
1-800-222-7572

MAUI DISTRICT OFFICE

Second Taxation District
P. O. Box 1169
Wailuku, HI 96793-6169

State Office Building
54 S. High St., #208
Wailuku, HI 96793-2198

Telephone No.: (808) 984-8500

Fax No.: (808) 984-8522

HAWAII DISTRICT OFFICE

Third Taxation District
P. O. Box 833
Hilo, HI 96721-0833

State Office Building
75 Aupuni St., #101
Hilo, HI 96720-4245

Telephone No.: (808) 974-6321

Fax No.: (808) 974-6300

KAUAI DISTRICT OFFICE

Fourth Taxation District
3060 Eiwa St., #105
Lihue, HI 96766-1889

State Office Building
3060 Eiwa St., #105
Lihue, HI 96766-1889

Telephone No.: (808) 274-3456

Fax No.: (808) 274-3461

NEED MORE INFO?

The Department of Taxation wants to cut some of the red tape and reduce the bureaucracy faced by Hawaii taxpayers. That's why we have a toll-free tax information hotline for your convenience.

If you have a state tax problem, have a question, or need assistance, dial toll-free:

1-800-222-3229

JUST NEED A TAX FORM?

Ask for your form and CD-ROM order form by mail by dialing toll-free:

1-800-222-7572

Ask for your form by fax by dialing:

**On Oahu
(808) 587-7572**

**Outside Oahu
(808) 678-0522
from your fax machine**

INTERNET ADDRESS?

Tax information and tax forms also are available on the Internet at:

<http://www.state.hi.us/tax/tax.html>